

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA

FILED
for Charlotteville
SEP 01 2005

JOHN F. CORCORAN, CLERK
BY: *F. Coleman*
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JOSEPH L. EMERY,

Plaintiff,

v.

JO ANNE B. BARNHART, COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

CIVIL ACTION NO. 3:04CV00082

ORDER AND OPINION

JUDGE NORMAN K. MOON

By standing order of the Court, this case was referred to the Honorable B. Waugh Crigler, United States Magistrate Judge, for proposed findings of fact and a recommended disposition. The Magistrate filed his report on August 2, 2005, recommending that this Court grant the Commissioner's motion for summary judgment and affirm the decision of the Commissioner.

Plaintiff filed Objections to the Report and Recommendation on August 9, 2005. Said objections having been timely and appropriately lodged, this Court must undertake a *de novo* review of the case. *Orpiano v. Johnson*, 687 F.2d 44, 48 (4th Cir. 1982). After a thorough examination of the party's objections, the supporting memoranda, the applicable law, the documented record, and the Report and Recommendation, this Court overrules all objections.

Plaintiff specifically objects to Magistrate Judge Crigler's finding that the Administrative Law Judge did not ignore or improperly credit the treating or other medical evidence or fail to take a longitudinal view of the Plaintiff's impairments. Plaintiff instead argues that the record

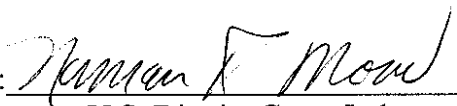
provides substantial evidence that he is disabled due to his depression and chronic back problems. Although the record does offer evidence that the Plaintiff suffers from serious impairments, the medical evidence and clinical observations therein indicate that his mental status falls within normal parameters (R.393-399). Further, despite his chronic lower back pain, Plaintiff reported that he is able to attend to his own shopping, cleaning, and hygiene needs (R.156), and an assessment by the Plaintiff's primary care physician indicated that the Plaintiff was able to perform sedentary work (R.466). Substantial evidence thus supports the Administrative Law Judge's decision that the Plaintiff is not disabled within the meaning of the Social Security Act.

Accordingly, it is this day ORDERED that the Report and Recommendation of the United States Magistrate Judge filed August 2, 2005, shall be, and hereby is, ADOPTED, in its entirety.

This case is dismissed and stricken from the docket of the Court.

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record.

ENTER: _____


U.S. District Court Judge

DATE: _____

9-1-2005